TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1914.

No. 617.

ROBERT L. GREENE, AUDITOR; SHERMAN GOODPASTER, TREASURER, AND JAMES P. LEWIS, SECRETARY OF STATE, CONSTITUTING THE BOARD OF VALUATION AND ASSESSMENT FOR THE STATE OF KENTUCKY, ET AL., APPELLANTS,

vs.

LOUISVILLE AND INTERURBAN RAILROAD COMPANY.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF KENTUCKY.

FILED AUGUST 17, 1914.

(25,647)

(25,447)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., AUGUST 28, 1916.

1 # 812.

UNITED STATES OF AMERICA:

The President of the United States to Louisville & Interurban Railroad Company, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States at Washington within thirty days from the date hereof and pursuant to an appeal this day granted by the United States District Court for the Sixth Circuit and Eastern District of Kentucky, wherein you are plaintiff and now appellee, and Robert L. Greene, Sherman Goodpaster, James P. Lewis, Thomas M. Jones, M. M. Logan, Charles H. Morris, O. S. Hogan, D. O. Myatt, Victor A. Bradley and Wiley C. Marshall are defendants and now appellants, to show cause if any there be why the decree rendered against the said appellants as aforesaid should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward Douglass White, Chief Justice of the Supreme Court of the United States of America, this the 12 day of July, 1916, and of the independence of the United States the one hundred and fortieth.

[Seal Eastern Kty. Dist. Court, United States of America.]

A. M. J. COCHRAN,
Judge of the District Court of the United States for the Sixth Circuit and the Eastern District of Kentucky.

A copy of the within citation received this the 19 day of July, 1916.

ALEX'R P. HUMPHREY,
Counsel for Plaintiff.

Filed July 19, 1916. J. W. Menzies, U. S. Clerk.

2 Record of the Proceedings of the District Court of the United States for the Eastern District of Kentucky in the cause and matter hereinafter stated, and the same being disposed of at a regular term of said court begun and held in the city of Frankfort on the second Monday in March, 1916, being the 13th day of said month, and the final decree in said cause being entered on the 13th day of June, 1916.

Present: Hon. A. M. J. Cochran, United States District Judge.

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
versus
HENRY M. BOSWORTH, THOMAS S. RHEA, and CARL F. CRECELIUS, Individually and as Constituting the Board of Valuation and Assessment of the State of Kentucky, et al., and Robert L. Greene, Sherman Goodpaster, and James P. Lewis et al., Their Respective Successors, Defendants.

Said action was commenced on the 26th day of November 1915 and proceeded to final disposition at the term and day above written, and during the progress thereof, pleadings and papers were filed, process issued and returned, and orders of Court were made and entered in the order and on the dates hereinafter stated, to-wit:

On November 26, 1915, Complainant filed its Bill of Complaint the same being as follows, to-wit:

3 *Bill in Equity.*

In the District Court of the United States for the Eastern District of Kentucky.

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
v.
HENRY M. BOSWORTH, THOMAS S. RHEA, and CARL F. CRECELIUS, Individually and as Constituting the Board of Valuation and Assessment of the State of Kentucky; Henry M. Bosworth, Auditor of Public Accounts of the State of Kentucky; G. B. Likens, Assistant Auditor of Public Accounts of the State of Kentucky; James Garnett, Attorney-General of the State of Kentucky; M. M. Logan, First Assistant Attorney-General of the State of Kentucky; Charles H. Morris, Second Assistant Attorney-General of the State of Kentucky; O. S. Hogan, Third Assistant Attorney-General of the State of Kentucky; Victor A. Bradley, Commonwealth's Attorney for the Franklin Circuit Court; and Wiley C. Marshall, County Attorney of Franklin County of the State of Kentucky, Defendants.

1. The plaintiff, Louisville & Interurban Railroad Company, states that it is, and at all times hereinafter mentioned was, a corporation

created by and organized under and pursuant to the laws of the State of Kentucky; and that the defendants, and each and every one of them, are citizens of the State of Kentucky and inhabitants of the respective districts of Kentucky and residents of the State of Kentucky as follows:

4 Said Henry M. Bosworth, Carl F. Crecelius, Victor A. Bradley, G. B. Likens, O. S. Hogan and Wiley C. Marshall are inhabitants of the Eastern District of Kentucky, and all the other defendants are inhabitants of the Western District of Kentucky, Henry M. Bosworth being a resident of Fayette County; Victor A. Bradley, a resident of Georgetown, Scott County; G. B. Likens, a resident of Frankfort in Franklin County; O. S. Hogan, a resident of Grant County; Wiley C. Marshall, a resident of Franklin County; Thomas S. Rhea, a resident of Russellville, Logan County; Carl F. Crecelius, a resident of Falmouth, Pendleton County; M. M. Logan, a resident of Edmonson County; and Charles H. Morris, a resident of Oldham County. Said Bosworth, Rhea, Crecelius, Likens, Garnett, Logan, Morris and Marshall now reside temporarily in the city of Frankfort, Franklin County.

The matter or amount in dispute in this suit greatly exceeds the sum or value of three thousand dollars ($3,000.00) exclusive of interest and costs, and arises under the Constitution of the United States—especially the Fourteenth Amendment thereof.

2. The defendants Bosworth, Rhea and Crecelius constitute, and at all the times hereinafter mentioned constituted, the Board of Valuation and Assessment of the Commonwealth of Kentucky; at all said times said Bosworth was Auditor of Public Accounts of said Commonwealth, and said Likens was Assistant Auditor thereof; said James Garnett was Attorney-General, and M. M. Logan, Charles H. Morris and O. S. Hogan were First, Second and Third Assistant Attorneys-General, respectively, of said Commonwealth; said Victor A. Bradley is and was at said times Commonwealth's Attorney for the Fourteenth Judicial District of Kentucky, including Franklin County; said Wiley C. Marshall is and was at all said times County Attorney of said Franklin County; and all said defendants

5 now hold the respective offices of which they are hereinabove alleged to have been the incumbents.

3. The plaintiff operates, and at all the times hereinafter mentioned operated, as a common carrier, passenger and freight lines of railroad in the counties of Jefferson, Shelby and Oldham, and in various municipalities and taxing districts in said three counties.

4. On or before October 1, 1914, the plaintiff duly made and delivered to the defendant Bosworth, Auditor as aforesaid, a verified statement or report as prescribed by the Kentucky Statutes, especially section 4077 and succeeding sections, correctly and truly setting out the information required by said statutes, and was ready to make whatever additional statement and give whatever additional information said Board of Valuation and Assessment might request of it.

The said Board of Valuation and Assessment made a preliminary

or tentative franchise valuation of plaintiff's property in Kentucky, and gave notice thereof to the plaintiff.

Within the thirty days allowed by law for a protest against said assessment the plaintiff did protest against the same, but notwithstanding said protest the said Board of Valuation and Assessment issued a final notice of assessment on November 5, 1915.

This assessment showed that the State Board of Valuation and Assessment had fixed the value of the capital stock of the plaintiff at $2,250,000.00 and had deducted therefrom the amount of tangible property assessed by the assessor for state taxes—$813,619.00, fixing the value of the franchise at $1,436,381.00, and had ascertained the taxes thereon as follows:

State tax generally—50 cents	$7,181.90
State road tax—5 cents	718.19
A total of	$7,900.09

The plaintiff states that the said Board of Valuation and Assessment arrived at the above result by the following method: It
6 appeared from the report of the plaintiff (and said report was correct) that the plaintiff had paid out in dividends $180,000.00. The Board then capitalized this amount at 6 per cent, took 75 per cent of the result, and then fixed the value of the capital stock at $2,250,000.00—substantially the result arrived at arithmetically by the above method.

5. The assessment made of the capital stock by the said Bosworth, Rhea and Crecelius, acting as members of the said State Board of Valuation and Assessment, subjects the plaintiff to state taxes upon the whole of its capital stock—which, for the year in controversy, are at the rate of 55 cents on the $100; and to county taxes in Jefferson, Shelby and Oldham Counties on a proportionate part of its capital stock; and to taxes in the cities of Louisville, Shelbyville and La Grange, and in various other municipalities and taxing districts in Jefferson, Shelby and Oldham Counties, through which the railroad of the plaintiff runs.

6. The plaintiff states that for many years past, including the taxing year 1914-1915—the taxes for which are here in controversy, the local assessors of the State of Kentucky have assessed the property of individuals and of corporations within their sphere of duty at less than 52 per cent of the fair cash value of said property, estimated at the price which it would bring at a fair and voluntary sale, and that the assessing officers have for many years last past habitually, intentionally, systematically and generally assessed the property of individuals and of corporations within their sphere of duty that consists of 80 per cent of the total taxable property at not exceeding 52 per cent of the fair cash value of said property, estimated at the price which it would bring at a fair and voluntary sale. The fact of such systematic assessment upon this basis for every year for many years last past has been a matter of public notoriety
7 in the State of Kentucky and has been stated and dwelt upon in the reports of the State Board of Equalization of the State

of Kentucky and in the reports of a tax commission which was created and organized under House Resolution No. 24, Session of 1912 of the Legislature of the State of Kentucky, and which, under said resolution, made its report as required thereby. And so it is that 80 per cent of the property in the State of Kentucky is made to pay state and county taxes, including county and district school taxes, upon an average value of less than 52 per cent, whereas the said Bosworth, Rhea and Crecelius, acting as the State Board of Valuation and Assessment, after ascertaining what, in their judgment, was the fair cash value of plaintiff's capital stock, reduced said value only to the extent of taking 75 per cent thereof, instead of taking 52 per cent, the average rate applied by assessing officers to the vast body of property in this state.

7. The plaintiff states that in other cases pending in this court, this court has adjudged that the taxing officers of the State of Kentucky have habitually, intentionally, systematically and generally assessed the property of individuals and of private corporations in the State of Kentucky at 60 per cent, or less, of the fair cash value of said property, estimated at the price which it would bring at a fair and voluntary sale. The plaintiff says that this is true, and that, as stated above, the said officers have, for many years last past, habitually, intentionally, systematically and generally assessed the property of individuals and of private corporations which as above comprises 80 per cent of the taxable property at not exceeding 52 per cent of the fair cash value of said property, estimated at the price which it would bring at a fair and voluntary sale thereof; but the said Bosworth, Rhea and Crecelius have denied plaintiff the benefit of equalization, to which it was entitled as aforesaid—to the
8 great and irreparable damage of the plaintiff; that thereby the plaintiff has been by the said defendants deprived of its property without due process of law, and denied the equal protection of the law, in violation of the Fourteenth Amendment to the Constitution of the United States, and in violation of the Constitution of the State of Kentucky and in disregard of the laws of said state; and plaintiff hereby sets up and relies upon the protection of said Federal and State Constitutions and laws.

8. The plaintiff states that it is ready, and has always been ready, willing and able to pay all taxes due to the Commonwealth of Kentucky, and all county and school taxes; that it has paid promptly all such taxes for all the years prior to the one in controversy; that it has paid the state and county taxes upon its tangible property for the year in controversy so far as they have been demanded, and has also paid the state taxes upon its franchise as arrived at by taking the value of its capital stock as found by the capitalization method hereinbefore referred to and taking 60 per cent of such valuation; that is to say, the $2,250,000.00, being 75 per cent of the valuation of its capital stock arrived at by capitalizing at 6 per cent in the manner stated above, would realize the sum of $3,000,000.00; 60 per cent of this sum is $1,800,000.00; deducting from this sum the valuation of plaintiff's tangible property—$813,619.00, leaves the sum of $986,381.00; and the plaintiff has paid to the said Rhea,

Treasurer of the State of Kentucky, through the said Bosworth, Auditor of the State of Kentucky, 55 cents on the $100 of this sum, which is $5,425.09, but the said sum has been received by the said persons only in part payment of the amount demanded.

9. The said Bosworth, Rhea and Crecelius threaten to and, unless immediately enjoined and restrained by this court, will (although they have not yet done so) certify to the county clerks of
9 Jefferson, Shelby and Oldham Counties the amounts claimed to be due to said counties and the taxing districts thereof by reason of the valuation aforesaid which said Bosworth, Rhea and Crecelius have assumed to make as above stated, and the said county clerks will thereupon certify said assessments, respectively, to the tax collectors for said counties and the taxing districts therein, for collection, and said collecting officers will thereupon proceed to make collections and will institute unwarranted, vexatious and multitudinous suits, actions and proceedings at law against plaintiff, and will from time to time institute and prosecute such suits, actions and proceedings, to the great annoyance and irreparable injury, cost and damage of the plaintiff; and unless immediately enjoined and restrained by this court the said Bosworth or the said Likens will enter in account with the said Treasurer of the State of Kentucky the amount of said taxes based upon the valuation aforesaid; and the said James Garnett as Attorney-General, and M. M. Logan, Charles H. Morris and O. S. Hogan as assistants, and said Victor A. Bradley and said Wiley C. Marshall will institute civil or penal actions or procure indictments against the plaintiff, based upon its assumed or supposed delinquency in the payment of taxes claimed to be due upon the illegal and unauthorized assessment aforesaid, and will bring such actions or proceedings or procure such indictments from day to day or from time to time, with the purpose of forcing the plaintiff to pay the illegal and unjust demands asserted against it on behalf of said Commonwealth and said local taxing districts based upon the aforesaid valuation which said defendants have assumed to make as aforesaid, and the apportionment and certification thereof which will be made as aforesaid. The penalties for
10 the alleged delinquency of the plaintiff, under section 4091 of the Kentucky Statutes, are so extreme and enormous as to render it inequitable and unjust to require plaintiff to defend all or any of such actions or proceedings, and therefore the plaintiff is utterly without any adequate remedy at law for protecting its rights or presenting its defenses to said illegal claims made by defendants; its remedy is only in equity and unless a preliminary injunction issue herein and be made perpetual upon final hearing, great and irreparable injury will result to plaintiff, which will be subjected to said numerous actions and prosecutions, whereby it will be stripped of its property without due process of law; and unless a temporary restraining order issue immediately, the said defendants will make the certifications to the said county clerks, and said local officers will notify the plaintiff thereof and promptly proceed to collect the amounts of such illegal assessment, and will seize and otherwise appropriate plaintiff's property, to the destruction

thereof and the destruction of plaintiff's business of transportation. The unauthorized and illegal valuation aforesaid constitutes a cloud and, as claimed by defendants, constitutes a lien upon plaintiff's property in the Commonwealth of Kentucky, and unless defendants are enjoined and restrained by this court numerous, repeated and vexatious suits will be instituted to enforce or foreclose such lien, claimed, as aforesaid, by defendants, in the endeavor to force payment of the aforesaid illegally claimed taxes which will be asserted by the defendants and local officers to be due the Commonwealth and said counties and taxing districts—to the great and irreparable injury and damage of the plaintiff.

Wherefore, and forasmuch as the plaintiff is remediless in the premises according to the common law, and its remedy is only in equity,—to the end that the plaintiff may not be subjected to a multiplicity of suits, which will result if the defendants be
11 not enjoined and restrained by this court, and to the end that the plaintiff may be permitted to pursue and carry on its business without unlawful hindrance or obstruction, and the railroads operated by the plaintiff in the Commonwealth of Kentucky as aforesaid, and its other property therein, may not be subjected to illegal liens and clouds, the plaintiff prays that a writ of subpœna issue against the defendants, and each and every one of them named and described as aforesaid, to appear and full and true answer make to this bill of complaint, said Bosworth, Rhea and Crecelius stating in said answer the method whereby they reached the so-called final assessment aforesaid (of which notice was given the plaintiff on November 5, 1915), but not under oath, answer under oath being hereby waived; and that said defendants, and each and every one of them, be enjoined by final decree, and meanwhile, by a preliminary injunction, as follows, to wit: That said Bosworth, Rhea and Crecelius, individually, or acting as the Board of Valuation and Assessment of Kentucky, be enjoined and restrained from apportioning to the county clerks above referred to, or to any other officers of the said counties or taxing districts in said counties, the aforesaid so-called assessment, or any part thereof, for taxation or for extension of tax rates thereon; that said Bosworth, individually, or as Auditor of Public Accounts of said state, be enjoined and restrained from certifying to the said county clerks or any other officers of the counties of Jefferson, Shelby and Oldham, the aforesaid so-called final assessment, or any part thereof; that the defendant Likens, Assistant Auditor, be likewise enjoined as herein prayed with respect to the said Bosworth; that the defendant Garnett, and the defendants Logan, Morris, Hogan, Bradley and Marshall, be enjoined and restrained from instituting any action or procuring any indictment, warrant or other proceeding in court or at law to
12 coerce the payment by plaintiff of any taxes upon the aforesaid illegal assessment, or any part thereof, whether on behalf of the Commonwealth or any county or taxing district, until the final order of this court; and that meanwhile a temporary restraining order issue in accordance with the prayer aforesaid for a preliminary injunction. And plaintiff prays for all other and fur-

ther relief to which it may be entitled, including its costs herein incurred.

HUMPHREY, MIDDLETON & HUMPHREY,
Attorneys for Plaintiff.

13 STATE OF KENTUCKY,
Jefferson County, ss:

The affiant, T. J. Minary, states that he is President of the Louisville & Interurban Railroad Company, and the facts stated in the foregoing petition are true except the statement that the plaintiff has paid to the State of Kentucky the taxes for the year 1915, amounting to Five thousand, four hundred and twenty-five and 9/100 Dollars ($5,425.09). Affiant further says that the plaintiff herein has paid to the Commonwealth of Kentucky the State taxes upon the tangible property assessment of said company.

T. J. MINARY.

Subscribed and sworn to before me by T. J. Minary this 24th day of November, 1915. My commission expires January 28, 1918.

LILLY R. WARREN,
Notary Public, Jefferson County, Ky.

STATE OF KENTUCKY,
Franklin County, ss:

The affiant, Alex. P. Humphrey, states that on this day, November 26, 1915, he has paid to the State of Kentucky the sum of Five thousand, four hundred and twenty-five and 9/100 Dollars ($5,425.09) mentioned in the 8th paragraph of the petition, said payment being on account of the Louisville & Interurban Railroad Company.

ALEX. P. HUMPHREY.

Subscribed and sworn to before me by Alex. P. Humphrey
14 this 26th day of November, 1915. My commission expires —— —, —.

——— ———,
Notary Public, Franklin County, Kentucky.
J. W. MENZIES, *Clerk,*
By C. N. WIARD, *D. C.*

15 On the same day, to-wit on November 6, 1915 the following Subpœna in Chancery was issued herein, to-wit:

16 The President of the United States of America to Henry M. Bosworth, Thomas S. Rhea, and Carl F. Crecelius, individually and as constituting the Board of Valuation and Assessment of the State of Kentucky; Henry M. Bosworth, Auditor of Public Accounts of Kentucky; G. B. Likens, Assistant Auditor of Public Accounts of Kentucky; James Garnett, Att'y-Gen'l of Kentucky; M. M. Logan, First Ass't Att'y-Gen'l of Ky.; Chas. H. Morris, Second Ass't Att'y Gen'l of Ky.; O. S. Hogan, Third Ass't Att'y-Gen'l of Ky.; Victor A. Bradley, Com'y'lth's Att'y, Franklin Circuit Court; Wiley C. Marshall, County Att'y, Franklin Co., Ky., Greeting:

You are hereby commanded to appear before our District Court of the United States of America, for the Eastern District of Kentucky, at the Federal Court Hall, in the City of Frankfort, Ky. on or before the 20th day after service, excluding the day thereof to answer a Bill in Equity exhibited against them in our said Court, by Louisville & Interurban Railroad Company which they shall in no wise omit, Under the Penalty of the Law.

Witness the Honorable A. M. J. Cochran, Judge of the District Court of the United States of America, for the Eastern District of Kentucky, and the seal of our said Court hereto affixed, at the Clerk's office of said Court, at Frankfort this 26th day of November A. D. 1915 and in the 140th year of our Independence.

Attest:
[SEAL.]

J. W. MENZIES, *Clerk*,
By C. N. WIARD,
His Deputy.

NOTE.—Answer or other defense is required to be filed in the Clerk's office on or before the twentieth day after service, excluding the day thereof; otherwise, the bill may be taken pro confesso.

17 The foregoing Process was returned and filed on December 16, 1895 with the following return endorsed thereon, to-wit:

Received this Subpœna in Chancery at Lexington, Ky. on December 4, 1915, and executed the same in full on the same date by delivering a true copy hereof to each of the within named parties at Frankfort, Ky., excepting V. A. Bradley copy was delivered to him at Georgetown, Ky.

R. C. FORD,
U. S. Marshal,
By OSCAR VEST, *Deputy.*

On the day following to-wit, on December 3, 1916 the following order was entered herein, to-wit:

18 #812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Complainant,
vs.
HENRY M. BOSWORTH et al., Defendants.

Restraining Order.

Complainant, upon filing its bill herein, moved the Court to grant it an injunction pendente lite in accordance with the prayer in its bill, and said motion is now fixed for hearing on January 5, 1916 at Frankfort, in the State of Kentucky, and it having been made to appear by the averments of complainant's bill that there is danger of irreparable loss to complainant before the hearing of said application for said injunction can be had unless defendants herein are, pending said hearing, enjoined and restrained as prayed in complainant's said bill; and defendants having had due notice of the application for a temporary restraining order.

It is therefore ordered that a temporary restraining order be, and it is, granted and that the defendants, Henry M. Bosworth, Thomas S. Rhea and Carl F. Crecelius, whether acting individually or as the Board of Valuation and Assessment of Kentucky, be and they are enjoined and restrained from apportioning to the County Clerk mentioned in the Bill of Complaint herein, or to any other officers of the County or taxing districts in the county mentioned in the Bill of Complaint, the assessment mentioned in said Bill of Complaint which said defendants assumed to make for the year 1915 as therein alleged, or any part thereof, for taxation or for extension of tax rates thereon; that said Bosworth, whether acting individually or as Auditor of Public Accounts of said State, be and he is enjoined and restrained from certifying to the said County Clerk or any other officer or
19 officers of the county mentioned in said Bill of Complaint the aforesaid so-called final assessment; that the said defendant, G. B. Likens, whether acting individually or as Assistant Auditor, be and he is likewise enjoined as is the said Bosworth; that the defendant James Garnett, whether acting individually or as Attorney General of the State of Kentucky, and the defendants, Charles H. Morris, M. M. Logan and O. S. Hogan, whether acting individually or as Assistant Attorney General of the State of Kentucky; and Victor Bradley, whether acting individually or as Commonwealth's Attorney, and Wiley C. Marshall, whether acting individually or as County Attorney for Franklin County, Kentucky, be and they are and each of them is enjoined and restrained from instituting or prosecuting any suit or procuring any indictment, warrant or proceeding in court or at law to coerce the payment by complainant of any taxes upon the assessment aforesaid, or any part thereof, whether on behalf of the Commonwealth or any county, city, town or taxing district, until the further order of this court; provided that the complainant pay to the proper collecting officers of the county, towns and taxing districts of the county in which the railroad of complainant runs, as mentioned

in its Bill of Complaint herein, within thirty (30) days after the said Auditor of Public Accounts of the Commonwealth of Kentucky shall have certified to the proper officers of said subdivisions the amounts to which they respectively may be entitled upon the basis of an assessment of $6,993,285, and notice to complainant of such amounts so certified and of such certification, the taxes so certified as payable to them.

And the said Henry M. Bosworth, Auditor, and G. B. Likens, Assistant Auditor, are enjoined and commanded to refrain from entering in account as a demand payable at the treasury of the Commonwealth of Kentucky any amount of taxes bases on said assessment of complainant's franchise which said Board assumed
20 to make for the year 1915 at any greater total amount than the aforesaid $6,993,285, and to refrain from making any report to the Attorney General of any alleged delinquency arising from the failure of complainant to pay taxes to the State of Kentucky based on the assessment made for franchise taxation on behalf of said State for 1915, and to refrain from causing proceedings of any kind to be instituted against complainant because of its failure or refusal to pay franchise taxes for the year 1915 based upon said assessment; and the defendants aforesaid, whether acting individually or assuming to act in their official capacities respectively, are enjoined and commanded to refrain from instituting or prosecuting any proceeding or proceedings against the complainant, whether by indictment or civil action or otherwise, to recover taxes or penalties because of any alleged delinquency of complainant in failing to pay taxes based upoon the assessment of valuation of its franchise for taxation which said defendants Bosworth, Rhea and Crecelius assumed to make.

And this restraining order shall be and remain in full force and effect until the further order of this court.

21 On December 3, 1915 the duly certified copy of foregoing Restraining Order was issued and same was returned and filed on Dec. 16, 1915 and the Marshal's return on the foregoing Restraining Order is as follows, to-wit:

Received this Restraining Order at Lexington, Ky. on December 4, 1915, and executed the same in full on the same date by delivering a true copy hereof to each of the within named parties at Frankfort, Ky., excepting V. A. Bradley copy was delivered to him at Georgetown, Ky.

R. C. FORD,
U. S. Marshal,
By R. C. FORD, *D. M.*

On the day following to-wit, on December 31, 1915 the following order was made and entered herein, to-wit:

22 In the District Court of the United States for the Eastern District of Kentucky.

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
v.
HENRY M. BOSWORTH, &c., Defendants.

Order.

This day came the plaintiff, by counsel, and tendered and offered to file a supplemental bill herein, and the Court being advised, it is ordered that said bill be, and it is, filed.

Thereupon came the defendants named in said supplemental bill—Robert L. Greene, Sherman Goodpaster, James P. Lewis; the said Greene, Goodpaster and Lewis who will compose the Board of Valuation and Assessment of the State of Kentucky; M. M. Logan, Charles H. Morris, O. S. Hogan, Wm. O. Myatt and Victor A. Bradley—all by M. M. Logan, Attorney General and solicitor for himself and said other defendants, and entered their appearance herein; and it is now, by consent of all the defendants hereto, ordered, adjudged and decreed:

That the said defendant Robert L. Greene, immediately upon his accession to the office of Auditor of Public Accounts of the State of Kentucky, shall be substituted in the place and stead of his predecessor in office—the defendant Henry M. Bosworth;

That the defendant —— ——, immediately upon his accession to the office of Assistant Auditor of Public Accounts of the State of Kentucky, shall be substituted in the place and stead of his predecessor in office—the defendant G. B. Likens;

23 That the defendant Sherman Goodpaster, immediately upon his accession to the office of Treasurer of the State of Kentucky, shall be substituted in the place and stead of his predecessor in office—the defendant Thomas S. Rhea;

That the defendant James P. Lewis, immediately upon his accession to the office of Secretary of State of the State of Kentucky, shall be substituted in the place and stead of his predecessor in office—the defendant Carl F. Crecelius;

That said defendants Greene, Goodpaster and Lewis shall then be substituted for their several predecessors aforesaid, as members composing the Board of Valuation and Assessment of the State of Kentucky;

That the defendant, M. M. Logan, immediately upon his accession to the office of Attorney General of the State of Kentucky, shall be substituted in the place and stead of his predecessor in office—the defendant James Garnett;

That the defendants Morris, Hogan and Myatt, respectively, shall be substituted in the place and stead of their predecessors in office, respectively—the defendants Logan, Morris and Hogan;

That the defendant Victor A. Bradley shall be substituted in the place and stead of the said Bradley—himself his predecessor in said office;

That all the allegations made by the plaintiff in this suit, in its original bill, with respect to the defendants Bosworth, Rhea and Crecelius, and with respect to the said defendants as members of the Board of Valuation and Assessment of the State of Kentucky, and all the allegations made as aforesaid with respect to the said Bosworth as Auditor of Public Accounts of the State of Kentucky, and to his assistant, and with respect to the said Garnett and his assistants, and with respect to the said Bradley, shall, in so far as they may be applicable, be construed and treated as specifically made with respect to the defendants Greene, Goodpaster and Lewis, and with respect to the said defendants as members of the Board of Valuation and Assessment aforesaid, and with respect to the said Greene as Auditor of Public Accounts of the State of Kentucky, and to his assistant, and with respect to the said Logan and his assistants, and with respect to the said Bradley;

That all orders heretofore entered in this suit shall be extended to and considered to embrace and apply to the said defendants Greene, Goodpaster and Lewis, and to the said defendants as members of said State Board of Valuation and Assessment, and to the defendant Greene as Auditor aforesaid, and to his assistant, and to all the other defendants to said supplemental bill, and to their assistants and agents after their induction into their respective offices, with the same force and effect with which they applied to their predecessors, respectively, during their incumbency of said offices, and with the same force and effect as if said orders were entered at this time, substituting the names of the defendants to the supplemental bill herein for the names of their predecessors respectively;

And that this suit shall, immediately upon the induction into office of the defendants, made such by the supplemental bill herein, proceed against the said defendants—the said Greene as Auditor aforesaid; the said Goodpaster as Treasurer aforesaid; the said Lewis as Secretary of State aforesaid; the said Greene, Goodpaster and Lewis as constituting the State Board of Valuation and Assessment as aforesaid; the said Logan as Attorney General aforesaid, and his said assistants; the said Bradley as Commonwealth's Attorney aforesaid; and the said —— —— as Assistant Auditor aforesaid—as fully as against their respective predecessors in office.

The motion for a preliminary injunction heretofore set for hearing *in* January 5, 1916, is now continued for hearing on —, and the temporary restraining order herein shall continue in effect until the further order of the Court.

The Supplemental Bill filed by the foregoing order on December 31, 1915, is as follows, to-wit:

27 In the District Court of the United States for the Eastern District of Kentucky.

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
v.
HENRY M. BOSWORTH, &c., Defendants.

Supplemental Bill of Equity Bringing in the Following Additional Persons as Defendants.

Robert L. Greene, who has been elected Auditor of Public Accounts of the State of Kentucky;

Sherman Goodpaster, who has been elected Treasurer of the State of Kentucky;

James P. Lewis, who has been elected Secretary of State of the State of Kentucky;

M. M. Logan, who has been elected Attorney-General of the State of Kentucky;

—— ——, who is to be appointed Assistant Auditor of Public Accounts of the State of Kentucky;

Charles H. Morris, who is to be appointed First Assistant Attorney-General of the State of Kentucky;

O. S. Hogan, who is to be appointed Second Assistant Attorney-General of the State of Kentucky;

D. O. Myatt, who is to be appointed Third Assistant Attorney-General of the State of Kentucky; and

Victor A. Bradley, who has been re-elected Commonwealth's Attorney for the Franklin Circuit Court.

28 The plaintiff, Louisville & Interurban Railroad Company, by way of supplemental bill, insisting upon all the allegations in its bill of complaint herein, now supplements the said bill by the following allegations, to wit:

That Robert L. Greene, Sherman Goodpaster and James P. Lewis were at the time of the filing of the bill of complaint herein, and now are, citizens of the State of Kentucky and residents in the Eastern District thereof;

That M. M. Logan, Charles H. Morris, O. S. Hogan, D. O. Myatt, —— —— and Victor A. Bradley were at the time of the filing of the bill of complaint herein and now are, citizens of the State of Kentucky and residents in the Eastern District thereof;

That the respective terms of office of Henry M. Bosworth, Thomas S. Rhea and Carl F. Crecelius, as Auditor, Treasurer and Secretary of State, and as constituting the Board of Valuation and Assessment of the State of Kentucky as alleged in the original bill of complaint herein, and the terms of office of G. B. Likens, Assistant Auditor, James Garnett, Attorney-General, M. M. Logan, First Assistant Attorney-General, Charles H. Morris, Second Assistant Attorney-General, O. S. Hogan, Third Assistant Attorney-General, and Victor

A. Bradley, Commonwealth's Attorney for the Franklin Circuit Court, will expire on the 3rd day of January, A. D. 1916, when their successors, respectively, will succeed them in said offices;

That at the general election held in the State of Kentucky on November 2, 1915, the defendant Greene was elected Auditor of Public Accounts of the State of Kentucky; the defendant Goodpaster was elected Treasurer of the State of Kentucky; the defendant Lewis was elected Secretary of State of the State of Kentucky; the defendand Logan was elected Attorney-General of the State of Kentucky; and the defendant Bradley was re-elected Commonwealth's
29 Attorney for the Franklin Circuit Court; that the terms of all these officers will begin on January 3, 1916, and that each of them has received his certificate of election and is prepared to qualify; and that when inducted into office the said Greene, Goodpaster and Lewis will compose the State Board of Valuation and Assessment of the State of Kentucky;

That the plaintiff is informed, and so states the fact to be, that the said M. M. Logan will appoint as his first assistant the said Charles H. Morris, as his second assistant the said O. S. Hogan, and as his third assistant the said D. O. Myatt; and that the said Greene will appoint —— —— as Assistant Auditor of Public Accounts of the State of Kentucky;

That a restraining order has been heretofore issued and served upon each of the defendants originally made such to the bill of complaint herein, the said restraining order being in the terms of the prayer of the said bill; and that a motion for a temporary injunction herein has been entered and assigned for hearing on January 5, 1916;

That the said several persons above mentioned have been elected or appointed, or will be appointed, as successors to the defendants named in the bill herein, according to the respective offices described in the original bill of complaint and as stated in this supplemental bill of complaint, and that the said several defendants named herein will, under color of their official powers, and each of them will, do and perform the several acts and things which the bill of complaint herein alleged were about to be done and performed by their predecessors in office;

That therefore it is necessary that the same restraining orders and temporary and final injunctions be entered as against the new
30 defendants made such by this supplemental bill as were made or prayed to be made against the original defendants herein.

The plaintiff therefore prays that the said several persons above named be now made parties defendant hereto and that they be substituted for their predecessors—each according to the office and duties of his predecessor; that this cause proceed without abatement against these new defendants and such of the old defendants as have not gone out of office; that a restraining order be issued and served upon each of these new defendants in the same terms as the restraining order heretofore issued herein, and that this cause be set down for January 5, 1916, for the hearing of the motion for a temporary injunction herein; and that the plaintiff have all the relief against

the new defendants, made such by this supplemental bill, as was prayed against the original defendants, and against the three defendants acting as the State Board of Valuation and Assessment, and also that it have process against the said new defendants in the same manner in which process was awarded against the original defendants, requiring the said new defendants to answer herein, but not under oath; and, generally, that this cause proceed with the same force and effect against the new defendants as if they had been properly joined as defendants in the original bill of complaint herein.

Plaintiff prays for all further relief.

HUMPHREY, MIDDLETON & HUMPHREY,
Attorneys for Plaintiff.

31 On a day following, to-wit, on March 13, 1916 the following order was made and entered herein, to-wit:

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY
vs.
H. M. BOSWORTH et al.

This day came the complainant, by solicitors, and tendered and offered to file a second supplemental bill herein, and the court being advised, it is ordered that said bill be, and it is filed.

Then came the defendant named in said supplemental bill, T. M. Jones, by M. M. Logan, Attorney General and solicitor for defendants, and entered his appearance herein; and it is now, by consent of all parties hereto, ordered, adjudged and decreed that the said defendant T. M. Jones, be substituted in place of his predecessor in office as Assistant Auditor of Public Accounts for the State of Kentucky, Defendant, G. B. Likens, and that all parties brought into this cause by said second supplemental bill and the supplemental bill filed herein December 31, 1915, whether as entirely new parties, or as old parties holding new offices, shall take herein the places exactly of their respective predecessors in office and be respectively affected exactly as they were respectively affected by all pleadings, proofs and orders herein, including the preliminary order of injunction and all other steps taken and proceedings had in this cause.

This day came the parties by counsel and time until May 15, 1916 is given defendants to plead herein and the motion for the preliminary injunction is continued until that day. In all other respects the cause shall stand on the order entered herein December 31, 1915.

32 Said Second Supplemental Bill filed by the foregoing order on March 13, 1916 is as follows, to-wit:

In the District Court of the United States for the Eastern District of Kentucky.

In Equity. No. 812.

812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Complainant,
v.
H. M. BOSWORTH et al., Defendants.

Second Supplemental Bill.

The complainant, Louisville & Interurban Railroad Company, by way of a second supplemental bill, and insisting upon all the allegations in its bill of complaint and supplemental bill of complaint herein, now again supplements its said bill by the following allegations, to wit:

That defendants Robert L. Greene, Sherman Goodpaster and James P. Lewis have qualified respectively as Auditor, Treasurer and Secretary of State of the Commonwealth of Kentucky, and have, since January 3, 1916, composed and now compose the State Board of Valuation and Assessment of the State of Kentucky, and said Greene has been since that date and is now ex-officio the Chairman of said Board.

That Thomas M. Jones, who is a citizen of the State of Kentucky and a resident of the Eastern District thereof, has been appointed and qualified and is now acting as the Assistant Auditor of the State of Kentucky, and said JJones is now made a defendant herein.

That defendant, M. M. Logan has qualified as Attorney-General of the State of Kentucky, and has, since January 3, 1916, been acting and is now acting as such.

33 That said M. M. Logan, on January 3, 1916, appointed defendants Charles H. Morris, O. S. Hogan and D. O. Myatt as, respectively, First, Second and Third Assistant Attorney-General, who, since their said appointment, have duly qualified and have continued to act and are now acting as such officers.

That defendant Victor A. Bradley qualified on the same day as Commonwealth's Attorney for the district wherein Franklin County is situate, under the new term for which he was elected, and has since continued to act and is now acting as such.

The complainant repeats all the allegations contained in its original and in its supplemental bill of complaint, and prays as is prayed in each of said pleadings and for all further relief to which in equity the complainant may appear to be entitled.

HUMPHREY, MIDDLETON & HUMPHREY,
Attorneys for Complainant.

STATE OF KENTUCKY,
County of Jefferson, sct:

Thomas J. Minary says that he is President of Complainant, the Louisville & Interurban Railroad Company, and that the statements contained in the foregoing second supplemental bill are true.

T. J. MINARY.

Subscribed and sworn to before me by Thomas J. Minary this 11th day of March, 1916. My commission expires Jan. 18, 1920.

[SEAL.]

CLARENCE DALLAM,
Notary Public, Jefferson County, Kentucky.

34 On a day following to-wit, on May 15, 1916, the order was made and entered herein, to-wit:

#812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY
vs.
H. M. BOSWORTH et al.

Came the parties by their attorneys, whereupon defendants by attorneys filed and entered a motion to dismiss plaintiff's Bill in Equity and all amendments thereto to which the plaintiff objected. Said motion to dismiss filed by the foregoing order is as follows, to-wit:

35 In the District Court of the United States for the Eastern District of Kentucky.

In Equity. No. 812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
vs.
H. M. BOSWORTH and Others, Defendants.

Motion to Dismiss.

Come the defendants and each of them and move this court to dismiss plaintiff's bill in equity, and all amendments thereto, for the following reasons, to-wit:

1. There is no Federal question involved or shown in plaintiff's pleadings, and this court, therefore, has no jurisdiction to hear or determine any of the questions attempted to be raised in this action.

2. The bill states no cause of action against the defendants, nor either of them, under the laws of this State or under the laws of the United States.

3. If the things of which plaintiff complains should be true, plaintiff has an adequate remedy at law.

4. The bill and amended bills show no equity on their face.

5. Because this action is a suit against the State of Kentucky.

Wherefore, the defendants pray that the court dismiss the
36 bill and amended bills, and that they have judgment for cost against the plaintiff, and for all proper relief.

M. M. LOGAN.

The affiant, M. M. Logan, says that he is Attorney General of the State of Kentucky, and that as such it is his duty to represent the defendants in this cause of action. He makes this motion in good faith and believes that it is well founded.

M. M. LOGAN.

Subscribed and sworn to before me by M. M. Logan, Attorney General, this May 13, 1916.

MATTIE B. NORRIS,
Notary Public, Franklin County, Kentucky.

37 On a day following to-wit, on June 13, 1916, the following Final Judgment was entered herein, to-wit:

38 *Final Judgment.*

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Complainant,
v.
H. M. BOSWORTH et al., Defendants.

This cause came on to be heard this day upon the original bill of complaint filed herein as well as on the supplemental bill of complaint filed December 30, 1915, and the second supplemental bill of complaint filed March 13, 1916, and upon the various orders hereinbefore entered, and upon the motion of the defendants, in writing, filed herein May 15, 1916, said motion being to dismiss this bill of complaint and the supplemental bills of complaint upon the grounds stated in said motion. And the court being now advised it is considered by the court that said motion be and it is hereby overruled; to which the defendants except.

And thereupon came the defendants and each of them by counsel and declined to plead further herein and made no objection to the submission of this case for final decree.

And thereupon the court being advised it is considered that the allegations of the said pleadings above mentioned not being denied are to be taken as true and relief granted accordingly.

It is therefore considered by the court:

That the defendants, Robert L. Greene, Sherman Goodpaster and James P. Lewis, who are respectively Auditor, Treasurer and Secretary of State of the Commonwealth of Kentucky, and have, since January 3, 1916, composed and now compose the State Board of Valuation and Assessment of the Commonwealth of Kentucky, and their successors in office, be and they are and each of them is hereby perpetually enjoined and restrained from apportioning to the
39 county clerk of Jefferson County, or the county clerk of Oldham County, or the county clerk of Shelby County, or any

other officer or officers of either of said counties or of any taxing district in either of said counties, the assessment mentioned in said bill of complaint (which was assumed to be made by their predecessors in office, for the year 1915, as alleged in said pleadings), or any part thereof, except to the extent of $986,381, for taxation or for the extension of tax rates thereon;

That said Greene, and any successor in office, whether acting individually or as Auditor of Public Accounts of said Commonwealth, be and he is hereby perpetually enjoined and restrained from certifying to any of the said county clerks or to any other officer or officers of any of the counties or taxing districts of counties mentioned in said bill of complaint, the aforesaid so-called final assessment, except to the extent above mentioned;

That the defendant, Thomas M. Jones, and any successor in office, whether acting individually or as Assistant Auditor, be and he is likewise perpetually enjoined and restrained as is the said Green;

That the defendant, M. M. Logan, and any successor in office, whether acting individually or as Attorney-General of the Commonwealth of Kentucky; and the defendants, Charles H. Morris, O. S. Hogan and D. O. Myatt, and their successors in office, whether acting individually or as Assistant Attorney-General of the Commonwealth of Kentucky; and the defendant, Victor A. Bradley, and any successor in office, whether acting individually or as Commonwealth's Attorney, be and they are and each of them is perpetually enjoined and restrained from instituting or prosecuting any suit or procuring any indictment, warrant or proceeding in court or at law to coerce the payment by complainant of any taxes upon the assessment aforesaid or any part thereof, except to the extent above stated, whether on behalf of the Commonwealth or any county, city, town or taxing district.

40 And the said Robert L. Greene, Auditor, and Thomas M. Jones, Assistant Auditor, and their successors in office, are perpetually enjoined and commanded to refrain from entering in account as a demand payable at the treasury of the Commonwealth of Kentucky any amount of taxes based on said assessment of complainant's franchise which the persons then composing the State Board of Valuation and Assessment assumed to make for the year 1915, at any greater total value than the aforesaid $986,381, and to refrain from making any report to the Attorney-General of any alleged delinquency arising from the failure of the complainant to pay taxes to the State of Kentucky based on the assessment made for franchise taxation on behalf of said State for the year 1915; and to refrain from causing proceedings of any kind to be instituted against complainant because of its failure or refusal to pay franchise taxes for the year 1915 based upon a franchise assessment greater than the amount above indicated, to wit, $986,381; and each and all of the defendants aforesaid, and their successors in office, whether acting individually or assuming to act in their official capacities respectively, are perpetually enjoined and commanded to refrain from instituting or prosecuting any proceeding or proceedings against the complainant, whether by indictment or civil action or otherwise, to recover

taxes or penalties because of any alleged delinquency of complainant in failing to pay taxes based upon the assessment or valuation of its franchise for taxation at the sum of $1,436,381, or any sum greater than $986,381.

41 On a day following to-wit, on July 12, 1916 the following order was made and entered herein, to-wit:

#812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY
vs.
HENRY M. BOSWORTH et al. and ROBERT L. GREENE et al., Their Successors.

This day came the defendants by M. M. Logan and Charles Carrol, their attorneys and filed herein and presented to the court their petition for appeal and assignment of errors intended to be urged by them, praying, also, that a transcript of the record and proceedings and papers upon which the decree herein was rendered, duly authenticated, be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the court does allow the appeal upon the defendants giving bond according to law, in the sum of $1,000.00.

Came the defendants by its attorneys, and presented to the court a bond on appeal herein, and same is approved by the court and ordered filed and the appeal allowed.

Said Petition for Appeal and Assignment of Errors and Bond and Citation are as follows, to-wit:

42 District Court of the United States for the Eastern District of Kentucky.

Filed July 12, 1916. J. W. Menzies, U. S. Clerk.

No. 812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,
v.
HENRY M. BOSWORTH and Others, Defendants.

Petition for Appeal.

The defendants, Robert L. Greene, Auditor, Sherman Goodpaster, Treasurer, James P. Lewis, Secretary of State, constituting the Board of Valuation and Assessment for the State of Kentucky, M. M. Logan, Attorney General of the State of Kentucky, Charles H. Morris, First Assistant Attorney General, O. S. Hogan,
43 Second Assistant Attorney General, D. O. Myatt, Third Assistant Attorney General, Thomas M. Jones, Assistant Audi-

tor, Victor A. Bradley, Commonwealth's Attorney for the Franklin Circuit Court, and W. C. Marshall, County Attorney of Franklin County, feeling themselves aggrieved by the decree entered in this suit on the 13th day of June, 1916, hereby appeal from the said decree to the Supreme Court of the United States and pray that their appeal may be allowed, and that a transcript of the record and proceedings and paper upon which the said decree was made, duly authenticated, may be sent to the Supreme Court of the United States, and they assign for error.

1. The action of the court in overruling defendants' motion to dismiss on the grounds that this court does not have jurisdiction to hear this cause;

2. The action of the court in overruling defendants' motion to dismiss on the grounds the bill of complaint shows no equity on its face;

3. The action of the court in overruling defendants' motion to dismiss on the grounds that plaintiff has an adequate remedy at law;

4. The action of the court in overruling defendants' motion to dismiss on the grounds the bill and amended bills show no equity on their face.

5. The action of the court in overruling defendants' motion to dismiss on the grounds that the bill states no cause of action
44 against the defendants or either of them under the laws of this State or under the laws of the United States.

6. The action of the court in overruling defendants' motion to dismiss on the grounds that this is a suit against the State of Kentucky.

7. The action of the court in holding in the decree that plaintiff's property should not be assessed at more than 60 per cent of its fair cash value estimated at the price it would bring at a fair voluntary sale for the supposed reason that other property in the State, or a great bulk of the other property in the State, is habitually assessed at not more than 60 per cent of its fair cash value estimated at the price it would bring at a fair voluntary sale.

8. The action of the court in granting a decree enjoining the collection of taxes by the State of Kentucky and the county and taxing districts in the State based upon an assessment greater than 60 per cent of the fair cash value of plaintiff's property estimated at the price it would bring at a fair voluntary sale.

Wherefore, the defendants pray that the decree of the District Court be reversed.

M. M. LOGAN,
Attorney General,
Counsel for Defendants.

Appeal allowed as prayed for, bond in the penalty of $1,000.00 July 12, 1916.

A. M. J. COCHRAN,
Judge of the District Court of the United States, Sixth Circuit and the Eastern District of Kentucky.

45 Filed Jul- 12, 1916. J. W. Menzies, U. S. Clerk.

District Court of the United States for the Eastern District of Kentucky.

No. 812.

LOUISVILLE & INTERURBAN RAILROAD COMPANY, Plaintiff,

v.

HENRY M. BOSWORTH and Others, Defendants.

Bond.

Know all men by these presents, that we, Robert L. Greene, Auditor, Sherman Goodpaster, Treasurer, James P. Lewis, Secretary of State, M. M. Logan, Attorney General, Charles H. Morris, First Assistant Attorney General, O. S. Hogan, Second Assistant Attorney General, D. O. Myatt, Third Assistant Attorney General, T. M. Jones, Assistant Auditor, Victor A. Bradley, Commonwealth's Attorney for the Franklin Circuit Court and Wiley C. Marshall,
46 County Attorney of Franklin County, as principals, and Robert L. Greene, Sherman Goodpaster, James P. Lewis and M. M. Logan, sureties, acknowledge ourselves to be jointly indebted to the Louisville & Interurban Railroad Company, appellee in the above cause, in the sum of $1,000.00 conditioned that whereas on the 13th day of June 1916, in the United States District Court for the Eastern District of Kentucky, in a suit depending in that court wherein the above mentioned principals were defendants and the Louisville & Interurban Railroad Company was plaintiff, numbered on the equity docket as 812, a decree was rendered against the said above mentioned principals, and they having obtained an appeal to the Supreme Court of the United States and filed a copy thereof in the office of the clerk of the court to reverse the said decree, and a citation directed to the said Louisville & Interurban Railroad Company citing and admonishing it to be and appear at a session of the Supreme Court of the United States to be holden in the City of Washington on the 11 day of Aug. 1916 next. If the said above mentioned principals shall prosecute their appeal to effect and answer all cost

if they fail to make plea good then the above obligation to be void, else to remain in full force and virtue.

ROBERT L. GREENE, *Auditor;*
SHERMAN GOODPASTER, *Treasurer;*
JAMES P. LEWIS, *Secretary of State;*
M. M. LOGAN, *Attorney General;*
CHARLES H. MORRIS,
1st Ass't Att'y Gen'l;
O. S. HOGAN, *2nd Ass't Att'y Gen'l;*
D. O. MYATT, *3rd Ass't Att'y Gen'l;*
T. M. JONES, *Assistant Auditor;*
VICTOR A. BRADLEY,
Commonwealth's Attorney for the Franklin Circuit Court;
WILEY C. MARSHALL,
County Attorney of Franklin County,
By M. M. LOGAN, *Attorney General,*
Counsel for Appellants.

JAMES P. LEWIS.
M. M. LOGAN.
ROB'T L. GREENE.
SHERMAN GOODPASTER.

47 On July 12, 1916 the following præcipe was filed herein to-wit:

United States District Court for the Eastern District of Kentucky.

#812.

Louisville & Interurban Railroad Company, Plaintiff,
vs.
H. M. Bosworth and Others, Defendants.

Præcipe.

The Clerk is directed to make a complete transcript of the record in this case, including all pleadings, exhibits and orders.
Given under my hand this July 12, 1916.

M. M. LOGAN,
Attorney General.

Approved this July 12, 1916.
ALEX P. HUMPHREY,
Attorney for Plaintiff,
Appellee on This Appeal.

Filed Jul- 12 1916. J. W. Menzies, U. S. Clerk.

48 UNITED STATES OF AMERICA,
Eastern District of Kentucky, ss:

I, John W. Menzies, Clerk of the District Court of the United States for the Eastern District of Kentucky, do hereby certify *that* the foregoing 47 pages to be a full, true and correct transcript of the record in the cause lately pending in the said Court wherein Louisville & Interurban Railroad Company was Complainant and Henry M. Bosworth et al. and Robert L. Greene, et al. their successors were Defendants, in Equity No. 812, as required by the præcipe of the party removing the case, which is approved by appellee, as the same appears on file and of record in my office.

In Testimony Whereof, I have hereunto set my hand as Clerk of the aforesaid Court, and affixed the seal thereof, at Frankford, in said District, this the 31st day of July, A. D. 1916, and of the Independence the 141- *the* year.

[Seal Eastern Ky. Dist. Court, United States of America.]

JOHN W. MENZIES,
Clerk United States District Court,
Eastern District of Kentucky,
[SEAL.] By CHAS. N. WIARD,
Deputy Clerk.

Endorsed on cover: File No. 25,447. E. Kentucky D. C. U. S. Term No. 617. Robert L. Greene, Auditor; Sherman Goodpaster, Treasurer, and James P. Lewis, Secretary of State, constituting the Board of Valuation and Assessment for the State of Kentucky, et al., appellants, vs. Louisville & Interurban Railroad Company. Filed August 17th, 1916. File No. 25,447.